

REMARKS

The Office Action of March 24, 2008 has been carefully considered. Reconsideration of this application, as amended, is respectfully requested.

In addition to the claims objected to by the Examiner, claim 18 has been amended to correct a grammatical informality noted therein (adding period at end).

Office Action Summary; Ambiguity

Turning now, to the office action, The Office Action Summary indicates that the Examiner objects to the Specification, however, no specific objections are set forth in the details of the office action. Accordingly, Applicants respectfully request that in the event there are actually objections, they be set forth in a subsequent, non-final communication and that Applicants be allowed to respond thereto, including to make amendments as of right to address such objections. Applicants respectfully request that the Examiner either confirm that there are no objections to the specification, or specifically enumerate the objections in a subsequent communication.

Interview Summary / Election of Invention

Applicants confirm that he undersigned attorney exchanged telephone voice messages with the Examiner on February 28th. In the exchange, the Examiner first set forth the restriction as Invention I (claims 1-34) and Invention II (claims 35-37). In response the undersigned attorney left a voice message for the Examiner on February 28th, at approximately mid-day, indicating a provisional election of claims 1-34 (Invention I) was made, with traverse.

While Applicants do not believe that the Examiner has met the burden for establishing a requirement for restriction, in order to advance prosecution of this long-pending application, Applicants nonetheless elect Invention I, currently including claims 1-34 and new claims 38-40 as found in the LISTING OF CLAIMS above.

In addition to setting forth the restriction requirement addressed above, the Office Action set forth objections to claims 12, 13, 19, 20, 22 and 28. Furthermore, claims 1, 8-12, 14, 16, 31 and 34 were rejected under 35 USC §102(e) as being anticipated by Fujioka et al., US 5,610,720 (hereinafter "Fujioka"). Claims 2-7, 13, 15, 18-30 and 32-33 were rejected under 35 USC §103(a) as being unpatentable over Fujioka in

view of Mandel et al, US 6,574,014 (hereinafter "Mandel"). Claim 17 was rejected under 35 USC §103(a) as being unpatentable over Fujioka in view of Turner et al, US 5,612,791 (hereinafter "Turner"). Claims 35-37 were indicated as withdrawn from consideration in view of the restriction requirement.

Claim Objections

In the LISTING OF CLAIMS above, claims 35-37 have been canceled without prejudice or disclaimer to the subject matter contained therein, and Applicants respectfully reserve the right to pursue such claims in a subsequent application. Claims 12, 13, 19, 20, 22 and 28 have been amended to address the Examiner's objections and the amended claims are respectfully urged to overcome the noted objections. The Examiner's suggestions for overcoming the objections are appreciated. In the event further objections remain, Applicants request an opportunity to respond thereto, including further amendments if necessary.

Rejections under 35 USC §102(e)

Claims 1, 8-12, 14, 16, 31 and 34 were rejected under 35 USC §102(e) as being anticipated by Fujioka. The rejection is respectfully traversed.

In order to establish a rejection under 35 USC §102(e), it is incumbent upon the Examiner to establish a *prima facie* case of anticipation. To do so, every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference. See MPEP §2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, MPEP §2131 further states that, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." Citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). And, the elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)."

For at least the following reasons, the Examiner's rejections of independent claims 1, 18 and 31 (and also amended claims 25, 28 rejected under 35 USC §103(a)), fails to set forth *prima facie* anticipation and must therefore be withdrawn. Relative to claim 1, the Examiner has mischaracterized the teachings of Fujioka. The Examiner urges,

relative to claim 1, for example, that Fujioka teaches displacement of the book support plate in an arcuate manner. Applicants respectfully submit that Fujioka teaches raising an lowering of the tables. Moreover, the link arms (10, 11) depicted in FIGs. 22 and 34, operating in a scissors fashion with pinned ends, preclude the movement of tables in anything other than an up-down manner (e.g., see arrow at left end of table 3 in FIG. 22). Accordingly, Fujioka does not teach movement of the recited book support plates in an arcuate manner as recited in independent claims 1 and 31.

The Examiner is also referred to the instant specification, for example to FIGS. 8A-B, arrows 256 and 202,203, which clearly depict the arcuate motion (arc being the operative root of the word) of the book support plates as well as the linkages. Applicants understand that limitations of the specification are not read into the claims, however, the Examiner in applying Fujioka mistakenly construes Fujioka as teaching arcuate motion, which is believed to be distinguishable of the linear up-down motion actually disclosed by Fujioka. For this and other reasons, the rejection of independent claims 1 and 31, as well as any claims dependent therefrom, is respectfully traversed and withdrawal is requested.

Rejections under 35 USC §103(a)

Claims 2-7, 13, 15, 18-30 and 32-33 were rejected under 35 USC §103(a) as being unpatentable over Fujioka in view of Mandel. The rejection is also respectfully traversed for the reasons set forth above relative to the failure of Fujioka to teach the arcuate displacement of the plates in an arcuate manner - as now recited in all independent claims, including claims 18, 25 and 28 rejected herein (the latter two having been amended to refer to arcuate displacement). As Fujioka fails to teach the recited limitations now found in each independent claim, any rejection based upon a combination with Fujioka must also fail.

Nor is the failure of Fujioka believed to be “cured” by an arguable combination with Mandel or Turner. Neither Mandel or Turner are believed to teach the specific limitations now found in rejected independent claims 18, 25 or 28. For the sake of brevity, Applicants do not set forth additional arguments relative to the rejections, but reserve the right to do so in the event this rejection is maintained. Applicants do note, however, that the Examiner has ignored what appears to be an inherent conflict between the methods of operation of Fujioka, Mandel and Turner, and has not

provided an indication of how one of skill in the art would have been motivated to modify the teachings of the cited patents to make the combination when they teach very different, or even incompatible, methods of operation.

Also for the sake of brevity, Applicants have not set forth specific arguments in traversal of the rejections of the dependent claims, as these claims all depend from presumably allowable independent claims 1, 18, 25, 28 and 31. Applicants reserve, however, the right to specifically address rejections of the dependent claims in a subsequent response or on appeal should the rejection be maintained.

Claim 17 was rejected under 35 USC §103(a) as being unpatentable over Fujioka in view of Turner, and is also urged to be patentably distinguishable for the reasons set forth relative to claim 1 above. As noted Turned is not believed to teach the recited limitations of claim 1 that are not taught by Fujioka, nor has Turner been urged as doing so.

In view of the foregoing remarks and amendments, reconsideration of this application and allowance thereof are earnestly solicited. In the event that additional fees are required as a result of this response, including fees for extensions of time, such fees should be charged to USPTO Deposit Account No. 50-2737 for Basch & Nickerson LLP.

In the event the Examiner considers personal contact advantageous to the timely disposition of this case, the Examiner is hereby authorized to call Applicant's attorney, Duane C. Basch, at Telephone Number (585) 899-3970, Penfield, New York.

Respectfully submitted,

/Duane C. Basch, Esq. Reg. No. 34,545/

Duane C. Basch

Attorney for Applicant

Registration No. 34,545

Basch & Nickerson LLP

1777 Penfield Road

Penfield, New York 14526

(585) 899-3970

DCB/dcm